


<i>Application Number</i> 	Application/Control No. 10/809,470	Applicant(s)/Patent Under Reexamination HANSEN ET AL.
	Examiner Irina S. Zemel	Art Unit 1711



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/809,470	03/25/2004	Stevcn M. Hansen	AD7006USNA	8340
23906 7590 08/21/2007 E I DU PONT DE NEMOURS AND COMPANY LEGAL PATENT RECORDS CENTER BARLEY MILL PLAZA 25/1128 4417 LANCASTER PIKE WILMINGTON, DE 19805			EXAMINER ZEMEL, IRINA SOPJIA	
			ART UNIT 1711	PAPER NUMBER
			MAIL DATE 08/21/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/809,470

Applicant(s)

HANSEN ET AL.

Examiner

Irina S. Zemel

Art Unit

1711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 June 2007.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 and 30-32 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-13 and 30-32 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

Claims 1-8, 11-13, 30-31 are rejected under 35 U.S.C. 103(a) as obvious over WO 02/0837794 to E. I. DuPont De Nemours, (hereinafter "DuPont").

The rejection stands as per reason of record.

Insofar as the limitations of claim 33 being incorporated in claim 1, the rejection of claim 33 as being obvious over the cited reference have been discussed in the Office action dated 4-21-2006 which rejection was maintained in the most recent office action dated 3-16-2007. The limitations to the microfiber dimensions are still considered to have been obvious from the disclosure of the cited reference as discussed in the previous office action in the absence of showing of unexpected results that can be attributed to the claimed dimensions (and the claimed process steps as repeatedly noted by the examiner in several previous actions).

Claims 9-10 and 32 are rejected under 35 U.S.C. 103(a) as obvious over DuPont in combination with Vercesi .

The disclosure of both references is discussed in detail in the previous office actions. Addition of organic fibers (which may be as short as 0.1 mm) to the compositions of DuPont would have been obvious from the disclosure of Vercesi expressly disclosing suitability of addition of such fibers to aramid fiber reinforced polyester composition to achieve expected cumulative results. Similarly, in view of similarities of the compositions disclosed in DuPont and

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Vercesi references, use of DuPont compositions to obtain thin sheets (or films) would have been obvious with reasonable expectation of adequate results.

Response to Arguments

Applicant's arguments filed 6-13-2007 have been fully considered but they are not persuasive. The main argument presented by the applicants at this time is that the Phillipoz reference does not disclose short fibers with the claimed length and the preferred embodiment disclose greater fiber length.

While the preferred embodiment of the cited reference may disclose different fiber length, it is well established by the case law that the fair disclosure and teachings of the references are not limited to the preferred embodiments. The reference clearly and expressly discloses suitability of fibers with length as short as 0.1 mm (100 μ m) for the invention, and this length overlaps with the upper limit of claimed length. In addition, as discussed above in the rejection, shorter fibers are known in the art as suitable for use in polymeric compositions.

The applicants further argue that the other limitations of claim 33 now incorporated in claim 1, such as surface area of the fibers (at least 25 m²/g) is not disclosed in the DuPont reference. The examiner addressed this limitation in the previous office actions expressly stating that the reference discloses "the surface area is preferably exceeds 6 m²/g, which again, implies that fibers with any BET higher than 6 are suitable for the invention absent showing of unexpected results. Fibers of high BET are well known in the art (see, for example, referenced 2,999,788 patent)." While it is noted that the claimed

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surface area is higher than the expressly disclosed lower limit of DuPont reference, as discussed, the disclosure of the lower limit implies suitability of any known fibers that exceed this limit in the absence of showing of unexpected results that can be attributed to such limitation. Once again, no evidence of unexpected results are provided, rather the applicants chosen again to argue that the disclosure of the references is limited to the preferred embodiments of this reference, which argument is not convincing as having no legal grounds and as being contrary to the established body of law.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Irina S. Zemel whose telephone number is (571)272-0577. The examiner can normally be reached on Monday-Friday 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Seidleck can be reached on (571)272-1078. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Irina S. Zemel
Primary Examiner
Art Unit 1711



ISZ